Juſtice done to the Late Miniſtry:

OR, THE

CHARGE

OF

Their Deſigning to make the Pretender King of *Great Britain*, prov'd from their Conduct to be Groundleſs.

AND

The Reaſons for a *Parliamentary Inquiry* Conſider'd.

With ſome *Thoughts* about ATTAINDERS.

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DEC

Juſtice done to the Late Miniſtry, *&c.*

THE Whigs, no doubt, upon reading the Title will cry, This muſt be the Work of the *Staff* or *Mitre*, or ſome of the Late Miniſtry; for none elſe would have the Impudence, at this time of day, to argue from their Conduct, that they were not in the Pretender's Intereſt. But if they will but a while ſuſpend their Cenſures, I do not doubt but they will eaſily perceive, that what I aſſert is no indefenſible Paradox.

Shou'd I argue from any thing but Matters of Fact, and cry, 'Tis not to be preſum'd that Men of their ſteddy Principles wou'd ſacrifice their Honour, their Conſcience, their Religion, their frequently-repeated Oaths, and their Country, to any Private Intereſt whatever; I ſhou'd be laugh'd at by both ſides, and told, that if any Caſe could poſſibly happen where Intereſt wou'd

not govern them, it wou'd be, when it requir'd the doing a downright honeſt Thing.

The Whigs ſay, it was to be preſum'd from the whole Conduct of theſe Mens Lives, that they, being from mean Circumſtances advanc'd to the higheſt Honours, wou'd (knowing how ſlippery Court-Favours are) be in mighty haſte to get wherewith to ſupport their new Titles and Dignities; and wou'd not ſcruple even to ſell their Country, cou'd they meet with a Chapman who wou'd come up to their Price, and ſo do their buſineſs all at once. But this, ſuppoſing it true, will be far from proving them to be in the Pretender's Intereſt; becauſe an outlaw'd Perſon, who lives on Charity himſelf, has ſcarce wherewith to bribe ſo much as one of their Footmen.

It will, no doubt, be anſwer'd, That tho the Pretender himſelf had not wherewith to bribe them, yet his great Protector was able to come up to their Demands.

But do we ſo little know that Prince, as to imagine he will beſtow his Mony, except to promote his own Deſigns? And do we want to be convinc'd, that the chief Care and Buſineſs of his whole Life has been to make himſelf Monarch of this Weſtern World, and conſequently wou'd not employ his Bribes to make any, but himſelf, King of *Great Britain?* And conſidering the great Oppoſition he has met with from its Arms, he cou'd not think himſelf ſecure of the Univerſal Monarchy he has been ſo long aiming at, till he had ſubdu'd it, and annex'd it as a Province to his own Empire: and conſequently cou'd have no other View in ſupporting the Pretender, but to uſe him and his Title as a Handle to kindle a Civil War in *Great Britain*,

ſo

ſo that he might with the more eaſe ſubdue both the contending Parties.

Thus he pretended at one time to join with us againſt the *Dutch*, and at another with the *Dutch* againſt the *Engliſh*; he did it with no other Deſign but to look on, and artfully encourage theſe two Proteſtant Nations to deſtroy one anothers's Naval Force.

And if he had here deſtroy'd the Whigs, he might, as ſoon as he pleas'd, have clapp'd the Pretender, as one incapable to govern, into a Monaſtery: which we have no reaſon to think he wou'd any more ſcruple, than he did the baniſhing the Royal Brethren, or owning the Title of the preſent and the late King, and Queen *Anne*. The Proteſtant *Jacobites* (if there were any ſuch) wou'd then be dipp'd too far to think of a Retreat; and if they did, the *Britiſh* and *Iriſh* Papiſts, who upon this occaſion wou'd be all in Arms, and who are entirely at his devotion, wou'd all join to cut them into pieces.

All thinking Men ſaw, that the Conduct of the late M—— was in every point agreeable to the Deſigns of *France*; and that things, by their extraordinary Management, were brought to that ſhort Iſſue, that we muſt either have the Houſe of *Hannover* or the Houſe of *Bourbon*; be Proteſtants and Freemen under the former, or Slaves and Papiſts under the latter.

The better to perceive what the late M—— did for *France*, let us firſt ſee what the former did againſt it, and what Difficulties they extricated us out of.

In the Beginning of the laſt War, things had a moſt diſmal Proſpect: the Houſe of *Bourbon* poſſeſs'd of all the *Spaniſh* Dominions; all *Italy* in effect in the power of *France*; the ſtrong Towns

Towns in *Flanders* deliver'd up to the *French*; and the *Dutch*, who gariſon'd them, made Priſoners of War; King *William* in a languiſhing Condition, and in the hands of a Tory Miniſtry and Parliament, which oblig'd him to own the new King of *Spain*; the Emperor in War with his own Subjects; the Empire divided, and two of its Electors declaring for *France*, and one of them ready to ſeize with a moſt powerful Army the Emperor's Hereditary Countries; and the then Victorious King of *Sweden* favouring the Deſigns of *France*.

Tho Matters were then in this deplorable State, yet by the able Management of the former Miniſtry, and the good Underſtanding they had with their Allies, the Scene was quickly chang'd. *Bavaria* and *Cologn* were ſtripp'd of all their Dominions; *France* beaten out of *Italy*; a great part of *Spain* declar'd for the Houſe of *Auſtria*; and the *French* driven from the Gates of *Nimeguen* to the old Frontiers of *France*: and tho the Faction that was here forming in favour of *France*, did what they cou'd to ſtop our great Succeſſes, and hinder'd us from entring *France* the Year *Bouchain* was taken; yet the next Year, until the *Engliſh* Army ſeparated from the Allies, the Affairs of *France* were in a moſt miſerable Condition, their Treaſures exhauſted, their Credit loſt, the Flower of their Troops kill'd, and the reſt by their frequent Defeats intirely diſpirited; and encamping in a barren Country, were ready to disband for want of Neceſſaries: the Allies Maſters of all the Rivers, and in a very rich Soil, and with the moſt numerous and beſt-appointed Troops they ever brought into the Field, penetrating into the open Country of *France*, ſo oppreſs'd

then

then with Famine, that they muſt have join'd the Allies, to keep themſelves from ſtarving. If the Confederates, without coming to a Ceſſation of Arms, had ſtill puſh'd on their Conqueſts, the *French* King muſt have comply'd with whatever Terms they demanded; and to preſerve *France*, wou'd not only have given up *Spain*, but whatever elſe, either here or in *America*, we ſhou'd have thought fit to have inſiſted on; and immediately have put what Cautionary Towns we wou'd into our hands.

If during the War, the Returns we made by Trade amounted (as is demonſtrated by the *Letter to a Member of the* October-Club) to three Millions and a half, what vaſt Additions of Wealth wou'd a Trade to *Spain* and the *Spaniſh Weſt-Indies*, eſpecially if excluſive of *France*, have got us? And what Advantages muſt we have gain'd, if we had oblig'd the *French* to quit only their Northern *American* Plantations, and engroſs'd the whole *Newfoundland* Trade to our ſelves?

Not aiming at Conqueſt (our Trade giving us all the Wealth we cou'd deſire) and being in the higheſt Reputation with our Allies, eſpecially for having ſo inviolably maintain'd our Faith and Honour, and ſo punctually obſerv'd all our Treaties; we ſhou'd not only have kept the Ballance of Power in our own hands, but foreign Nations wou'd have pay'd us a willing Homage, and made us the Arbiters of all their Differences. And as we ſhou'd have been the moſt happy and flouriſhing Nation in the Univerſe, ſo we might (*France* being reduc'd to a Condition never more to diſturb us) have tranſmitted all theſe Advantages to our lateſt Poſterity.

But

But alas! how is that Glorious Proſpect chang'd, and we become the Reverſe of all this! The Late M—— were no ſooner ſettled in their Poſts, but they perſuaded their Sovereign moſt humbly and moſt clandeſtinely, contrary to her ſolemn Engagements, to beg a ſeparate Peace, and upon ſuch baſe Terms, as none but a conquer'd Nation wou'd have ſubmitted to. Had they agreed to pay the *French* King a Tribute of three Millions yearly; it had not been ſo advantageous to him, and fatal to us, as the Peace and Treaty of Commerce, for which they labour'd with their utmoſt force to have obtain'd a Parliamentary Sanction. And had it paſs'd into an Act, we ſhou'd have had but little Trade except with *France*, which a few Hands cou'd have manag'd; and that Trade too, ſince it wou'd quickly have drain'd us of our ready Mony, cou'd not have laſted long. And if once our Trade was gone, our Seamen of courſe wou'd have left us: and an Iſland, if not Maſter at Sea, is by its Situation in a worſe Condition to defend it ſelf, than a Place on the Continent.

The chief Deſign of this Peace ſeems to have been no other, than to give *France* the Trade, and conſequently the Riches and Naval Force of this part of the World. What other Reaſon can be aſſign'd, why our *Newfoundland* Trade, which was the chief Nurſery of our Seamen, was given up to the *French*, by their being, contrary to an Act of Parliament, put in poſſeſſion of Cape *Briton*? by which too, all our other Northern Plantations are in the utmoſt danger.

What other Reaſon can be aſſign'd, why, tho *Portugal* was the firſt of the Allies that came into our Ceſſation of Arms, yet inſtead of taking care

care of it, we left it to the mercy of the Houſe of *Bourbon*; and had not the Emperor and the *Catalans* unexpectedly held out, both *Portugal* and *Brazil* had no doubt before this time been in the power of *France* and *Spain*; by which they wou'd have been Maſters of all the Gold and Silver that comes into *Europe*. And tho that Scheme has hitherto not been executed, yet the *French* have gain'd their Point, by having the liberty to ſend as many Ships as they pleaſe to *Brazil*, which muſt in a little time deprive us of that moſt beneficial Trade.

By the giving up *Spain* to the Houſe of *Bourbon*, we not only loſe our *Spaniſh* Trade (the Goods of our Merchants being lock'd up, and their Perſons inſulted) but the private Trade from *Jamaica*, which alone brought us in about 300000 Pounds yearly, is intirely cut off: and the *French*, by engroſſing the *Spaniſh* Wool, the Cochineel for dying Scarlets, *&c.* will out us of our *Turky* Trade.

That they might with the more eaſe enſlave us, we allow'd them to build an Harbour infinitely more commodious than old *Dunkirk*, deep enough to hold the Firſt-Rate Men of War, and wide enough to contain more than all the Royal Navy of *France*.

To weaken and diſable the Nation, beſides running into great Debts, they not only rais'd more Mony during theſe Pacifick Years, than the former Miniſtry for the ſame number of Years did during the War; but did every thing poſſible to reduce *Great Britain* to the loweſt Condition imaginable. Was it not for this reaſon that our Wool was underhand encourag'd to be carry'd to *France?* And cou'd it be for any other reaſon, that our Ships, our Seamen,

and Soldiers were loſt in the *Canada* Expedition, when the *French* Pilots who were taken on board ran the Fleet directly on the contrary Shore; where it was a wonderful Providence, that a great many more had not periſh'd? This is no uncharitable Suppoſition, conſidering how the Soldiers, who had done ſo much againſt *France*, were uſed; eſpecially thoſe disbanded abroad in *Spain* and *Portugal*.

Sweden, which cou'd not have ſubſiſted without a Piratical War, yet (being an Ally to *France*, and becauſe it ſerv'd to deſtroy our Trade) was quietly ſuffer'd to diſturb our Navigation, and to take our Ships in the *Baltick*, without ſo much as asking why they did ſo; but inſtead of that, we did every thing we cou'd in favour of them.

But this was not all theſe Men did for *France*, and againſt their own Country. Every one knows how they were modelling the Civil Poſts, the Fleet, the Army, the Militia, in favour of *France*; and under colour of the Pretender, both in *Ireland* and *Great Britain*, Levies of Men were a long time made, by Connivance, if not Encouragement. And in *Ireland* things were brought to that paſs, had it not been for the Moderation (which they call'd Cowardice) of the Lieutenant, the Proteſtants were in the utmoſt danger of being maſſacred.

In *Scotland* the Popiſh High-Land *Clans*, the faſt Friends of *France*, were arm'd, and kept in Pay; and the *Scots* who cou'd not be brought to declare for the Pretender, were openly inſulted, and threaten'd to be murder'd. Nor was it ſtrange the Proteſtants ſhou'd be ſo treated there, when here the *Examiner*, who wou'd be thought

to

to write by their Order, advis'd the Whigs to *prepare to die with Decency.*

In a word, to reckon up all things of this nature, wou'd be to write a Hiſtory of their Four Years Management. There ſeem'd nothing wanting to accompliſh their Deſigns, but putting *Portſmouth* and the Iſle of *Wight*, as Places of Arms, in the hands of *France:* and I refer my ſelf to thoſe who underſtand the Condition of thoſe Places, whether every thing was not removing out of the way, which cou'd make that Deſign abortive.

And their whole Management, with relation to the Allies, tended to no other End, than to give *France* all the advantageous Terms they cou'd; and ſo to ſet the Allies one againſt another, that they might be no hindrance to *France* from enſlaving us.

So impatient were they of giving up all immediately to *France*, that tho they had got from the Parliament almoſt ſeven Millions for carrying on a War, and at *London* and at the *Hague* had given repeated Promiſes that they wou'd act in concert with the Allies, and with Vigour; who likewiſe after they had taken the Field (which they were ready to do ſix Weeks before the *French*) had freſh Aſſurances from the General to the ſame purpoſe, ſo that the Army march'd to attack the *French* as to a certain Victory: yet when they were got in ſight of 'em, and it was too late for either Army to retreat, then our Pacifick General produc'd his fatal Orders for a *Ceſſation of Arms*, and to withdraw all the Troops in the Pay of *Great Britain*; tho at that time there was no one Article concluded at *Utrecht*, either for our Allies or our ſelves. And had theſe Orders

been obey'd, there can be no doubt that *France* wou'd not have miſs'd ſo favourable an Opportunity of cutting the reſt of the Allies in pieces; as they eaſily might, conſidering what a Conſternation ſuch an unexpected Separation muſt have produc'd: And if after that, they had ſerv'd our *Britiſh* Forces in the ſame manner, we ſhou'd have been told by their Creatures, That they had only deſtroy'd a Whiggiſh Antimonarchical Army, Enemies to the Church. And to make ſure work, there were the ſame Orders ſent to the Commanding Officer in *Spain*.

This indeed was a Plot worthy theſe *Machiavellians*, and which alone deſerv'd all the Rewards *France* cou'd give them: but this not ſucceeding (tho it had otherwiſe moſt diſmal effects) the General did the next beſt thing he cou'd for *France*; for tho he engag'd to take another Rout, yet he march'd directly into *Ghent* and *Bruges*: And we kept 'em to the laſt, tho *Ghent*, by Treaty, was to have been one of the Barrier-Towns for the *Dutch*. By which means the M—— got it in their power to hinder the *Dutch* from ſupplying their Army and Frontier Gariſons. And they not only threaten'd to deliver theſe two Towns to *France*, but to come into a War againſt them, if they wou'd not make peace upon ſuch Terms, as they and *France* ſhou'd think fit to preſcribe.

It has been an allow'd Truth, That the Safety of *England* depends on the Preſervation of *Flanders*: and even the Penſionary Parliament under *Charles* II. when the Power of the *French* King was not near ſo great, were ſo alarm'd at every Advantage he gain'd in *Flanders*, that they made * Remonſtrances, and Addreſſes upon Addreſſes to their King to enter into a War, in conjunction

* *See* Barrier-Treaty vindicated.

junction with the other Powers of *Europe*, in order to force the *French* King to part with the *Flemiſh* Towns he had taken. Yet when we had made a Treaty for ſecuring ſuch a Barrier to the States, as wou'd ſufficiently have cover'd 'em againſt *France*, whilſt they acted in ſupport of the Proteſtant Succeſſion, theſe Men forc'd the *Dutch* to come into a new Treaty, differing from the old one in nothing material, except in giving back the greateſt part of it to *France*, and making ineffectual the Security provided for the *Hannover* Succeſſion. And they got that Able *Miniſter* who had made it (who wou'd have had the Thanks of any other Parliament, for ſo great a Piece of Service to his Country) declar'd an Enemy to the Queen and Kingdom: And if *They* were *Friends*, *He* no doubt was an *Enemy*, ſince *He* is the very Reverſe of them; which is not the leaſt Ingredient of his great Character.

And it was the ſame Management, which hindred the Confederates from being invited to be Guarantees to the Proteſtant Succeſſion, tho the Queen had promis'd it, in anſwer to the Addreſſes of both Houſes. Inſtead of that, theſe Men were forming an Alliance with *France*, *Spain*, *Sicily*, the Popiſh Cantons, *&c.* which cou'd be no more in favour of the Proteſtant Religion, than of the Proteſtant Succeſſion.

If, after they had broke the Confederacy, the Emperor, left to ſhift for himſelf, and no ways a Match for *France*, cou'd obtain Terms much better than what they thought fit to carve for him, whilſt they acted at the Head of the Confederacy ſeemingly entire; this alone is a glaring Proof whoſe Intereſt they were advancing.

But

But when we conſider how they treated the Emperor, in the Perſon of his Miniſters, particularly Count *Gallas*; how they allotted his Kingdom of *Sardinia* (actually in his poſſeſſion) to one, and *Sicily* to another; it had been but a very natural Reſentment of ſuch Uſage, if he had turn'd upon us, and enter'd into any Meaſures with *France* for the Deſtruction of *Great Britain*.

To give the Iſland of *Sardinia* to the Elector of *Bavaria*, whoſe Dominions are a Key into the Heart of *Germany*; and that of *Sicily* to the Duke of *Savoy*, whoſe Dominions are the ſame to *Italy*, both deſtitute of Naval Force; was tying 'em down eternally to the Intereſt of *France*.

The chief Aim of the late M———, eſpecially after the Emperor and Empire wou'd not be contented with the Barrier we offer'd 'em, was to force the *Dutch* into ſuch a ſeparate Peace, as muſt neceſſarily imbroil them with the Emperor; and give *France* a handle, when ſhe made Peace with the Empire, to agree that Towns and Places ſhou'd be otherwiſe diſpos'd of, than they were by the Treaty at *Utrecht*, in order to involve the Confederates in a new War. For this end they not only employ'd Threats, but if the * Manager himſelf is to be believ'd, the better part of Three Hundred Thouſand Pounds.

* Tho. H——y.

In a word, their whole Conduct ſhews, that they had no other regard to their Country, than to ſalve Appearances, till *France*, in purſuance of their Scheme, became Maſter of it. And their great Boaſtings of the Demolition of *Dunkirk*; the gaining Millions by the *Aſſiento* and *South-Sea* Trade; and the Renunciation which *was to execute*

execute it ſelf, &c. were only to delude the People in the mean time.

Tho they had brought things to that paſs, that the Pretender, had he got into the Throne, cou'd not have kept it, without making ſuch Alliances as were not to be had while their Heads were on their ſhoulders; yet the *Jacobites* were ſo weak, as to think they had no other View but his Intereſt.

They muſt be ſenſible it was impoſſible for them, after they had done ſo many things againſt their Country which at laſt wou'd all break out, to eſcape Puniſhment as long as it continu'd free, whoever was King: and therefore it was their buſineſs to make it a Province of *France*.

And they, no doubt, flatter'd themſelves that they had given ſuch Earneſt of their being ſo attach'd to *France*, that they ſhou'd be intruſted with the Government of this Iſland; and that then there wou'd be nothing to hinder them from gratifying their implacable Revenge, unmeaſurable Ambition, and inſatiable Luſts.

I think I may now ſay, without adding more, That I have done Juſtice to the Late M——; and ſhewn, notwithſtanding all the Clamour that is rais'd againſt them upon the account of the Pretender, that they were no more for making him, than the Elector of *Hannover* (whom they treated with the utmoſt Contempt) King of *Great Britain:* but that the neceſſary Conſequence of this their traiterous Conduct (had not a timely ſtop been put to it by the hand of Providence) muſt have been an irretrievable Subjection of us and all *Europe* to the Pride of *France*.

NOW

NOW that we may the better ſee what theſe Men deſerve from the Nation, we ought to conſider what had been our *Condition*, had their curſed Deſigns taken place. And certainly we cou'd not have expected better Uſage from the *French* King than his Proteſtant Subjects had, who kept his tottering Crown on his Head. He, no doubt, wou'd have made ſure work, and diſabled the Nobility and Gentry from ever rebelling, by either putting them to death, as *Lewis* the *French* King's Son deſign'd to have done to the Nobles that aſſiſted him againſt King *John*; or elſe by ſecuring their Perſons in Priſons, Mines, or Gallies. There can be no doubt but that he wou'd, without regard to High or Low Church, ſeize on all their Eſtates, and put them into ſuch Popiſh hands as he cou'd confide in, and who wou'd be glad to hold them on any Terms, even during Pleaſure. The uſeful Hands he wou'd tranſport to *France*, there to manufacture our Wool, and other *Engliſh* Commodities; and after having burnt down the Metropolis, as too big to be bridled, he wou'd have forc'd the miſerable Inhabitants, at their own Expences, to build Forts and Citadels, for the better curbing of Hereticks and Rebels. This wou'd have been our Condition, theſe the Advantages we ſhou'd have been bleſs'd with.

If National Crimes have National Judgments attending them, can we hope to eſcape, but by ſhewing our utmoſt Deteſtation of theſe almoſt numberleſs Acts of Perfidiouſneſs, which were committed by the Late M———— in the name of the Nation? And can this be done, if they are permitted to deſcend in Peace

to

to the Grave, and tranſmit to their Poſterity the Rewards of their Treachery?

The *Gibeonites*, by pretending to be what they were not, obtain'd a Covenant for Protection from the *Jews:* and tho King *Saul* broke this Covenant, as Holy Writ ſays, out of Zeal to the Children of *Iſrael* and *Judah*; yet the Lord wou'd not ſuffer this ſingle piece of Treachery to go unpuniſh'd, but even after *Saul*'s Death (which was a very miſerable one) in the Reign of holy *David*, he brought a Famine on the Land for three Years together: nor wou'd he be intreated, till ſeven of King *Saul*'s Deſcendants were deliver'd up to the *Gibeonites*, and by them hang'd: ſo great an Abhorrence has the God of Truth for all Perfidiouſneſs! Nor cou'd a Zeal for *Judah* and *Iſrael*, the then only true Church of God, in the leaſt atone for this Breach of Faith.

But alas! what has been done among us is of a more crying Nature: Our Engagements were not haſtily made, nor with a Handful of Men that had been deſign'd to Deſtruction; but it was to the moſt conſiderable Nations of *Europe* that we had pledg'd our Faith, and that upon the matureſt Deliberation, for our own as well as their Safety. And when we moſt perfidiouſly broke theſe Contracts, it was not for the ſake of *Judah* and *Iſrael*, but to gratify the uncircumcis'd *Philiſtines*, that they might be enabled to extirpate the true Church. Good God! what Vengeance may not this Nation juſtly fear! what Judgments has it not reaſon to apprehend! Puniſhing the Authors, is ſurely the leaſt Atonement we can make; and how far that may avail us, God only knows.

But had we nothing more to bewail than the Loſs of our Reputation (ever had in the higheſt Regard by all brave Nations) yet ſurely *that*, laviſh'd away as it has been, ought to raiſe the Indignation of every true *Briton*. We are now become the *By-word* of Nations; hated by ſome, and laugh'd at by others: and this after we had attain'd to a Degree of Glory ſcarce to be match'd in Hiſtory. Can there be any found among us, who own themſelves *Engliſhmen*, and not join in calling for Vengeance on thoſe who have plung'd us into this Sink of Infamy?

The Nation, in the time of *Richard* II. thought they cou'd no otherwiſe retrieve their Honour, which had extremely ſuffer'd by that King's acting a very perfidious Part (tho nothing to what has been practis'd of late) but by making this an Article of his Depoſition; "That he was ſo "variable and diſſembling in his Words and "Writings, and ſo contrary to himſelf; eſpe-"cially in writing to the Pope, Kings, and "other Lords, out of the Kingdom, as well as "within it, and alſo to his other Subjects; that "no Man living knowing what he was, cou'd "confide in him: yea, he was reputed ſo un-"faithful and inconſtant, that he not only be-"came a Scandal to his own Perſon, but alſo "to the whole Kingdom, and to all Foreigners, "when once they came to know him."

If the beſt part of *Europe*, confederated againſt *France*, were hardly a Match for her; if ſuch a Confederacy was barely enough for our Preſervation, when the ſhare *France* had in Trade (the only Source of Wealth) was but inconſiderable: have we not much greater need of Alliances, ſince by the late Peace ſhe has got poſſeſſion of it in all its moſt valuable Branches?

ches? But can we wonder, if thoſe who have been once betray'd, ask us what Security we can give, if they join their Arms with ours, that we ſhall not deſert 'em again in the very Article of Action; and if we draw 'em into a War, that we ſhall not leave them, as we did the *Catalans*, to the Mercy of their Enemies? At leaſt, let 'em not ſay this was done, and that the Authors eſcap'd unpuniſh'd. Till then, I fear, it will be no eaſy Matter to convince 'em that our Affairs are now in the hands of thoſe that abhor ſuch Practices.

If at the Revolution, thoſe Traitors, who for ſo many Years together had been advancing the Power of *France*, and endeavouring to bring Popery and Slavery on the Nation, had met with their deſerv'd Fate; theſe Men wou'd not, with ſuch eager haſte, have ſtrove to give up all to *France*. And if they likewiſe eſcape, what other Security can we have for our All, but either that *France* will not think it worth his while to buy us, or that in the frequent Turns that happen, we ſhall always be ſure of a Miniſtry that can refuſe Millions?

Having mention'd ſome of thoſe many Reaſons, which ſeem to prove a Parliamentary Enquiry into the Conduct of the late M—— to be neceſſary; 'tis but juſt to conſider what is urg'd againſt this Enquiry. And here 'tis ſaid, That if it be the undoubted Prerogative of the Crown to make Peace and War, then to call the late M—— to account for acting in purſuance of the Queen's Commands, is ſtriking at the Prerogative; and if the Queen her ſelf cou'd do no wrong, how cou'd they do wrong, who only acted in her Name and by her Authority, in a thing to which her Power undoubtedly extended?

But ſurely this is a new Doctrine with the Tories themſelves; ſince they were unanimouſly of the contrary Opinion in King *William*'s Reign, when the Houſe of Commons were for impeaching thoſe that were concern'd in making the Partition-Treaty; and none more zealous in it, than they who wou'd now skreen themſelves under the Prerogative: nay, the Party then wou'd not allow that the Prince had a Right to make either Peace or War without Conſent of Parliament.

The Prerogative is an extenſive Power that our Princes have of doing Good, but 'tis Tyranny, when wreſted to ſerve any Purpoſe detrimental to the Publick; and Tyranny is certainly a great Wrong. And if it be a Maxim, That the Prince can do no Wrong, it is becauſe the Prince does nothing by himſelf, but by his Miniſters; and that conſequently they are accountable for all the Wrong that is done by the Miſapplication of the Prerogative.

Will any ſay, That becauſe the Prince has a Right to abate of the Rigour of the Law, and, where Mercy is ſeaſonable, may unqueſtionably pardon a Malefactor; that therefore he may pardon all Malefactors, and ſo put a total ſtop to Juſtice? or that the Miniſters who adviſe the doing this, ought to be skreen'd from Juſtice on account of the Prerogative, and becauſe the King can do no Wrong?

The King, no doubt, is the Fountain of Honour, and may confer the Dignity of Peerage as the Reward of Merit; will any therefore ſay he can make a whole Troop of Lords in the midſt of a Debate, to turn a Queſtion? This, ſure, is Prerogative unknown to the *Engliſh* Conſtitution, and was never before practis'd

tis'd in the moſt arbitrary Reigns: it was not becauſe the Miniſters cou'd not think of ſo happy an Expedient in time of need, but they knew it might coſt them their Heads; becauſe the Lords wou'd never ſuffer themſelves, by ſuch a Trick as this, to be put intirely into the hands of the Court; nor wou'd the Commons bear their impeaching Power to be thus turn'd into a Jeſt. And this Abuſe of the Prerogative makes that Law wholly inſignificant, which now renders Perſons condemn'd by Parliament incapable of Pardon; ſince no Miniſters wou'd be condemn'd, if at any time they can make new Lords by Dozens.

If it was thought reaſonable to degrade *Nevil* Duke of *Bedford* by Act of Parliament, in the 17th Year of *Edward* IV. leſt his Poverty ſhou'd influence him, and ſo the Honour of the Houſe ſuffer; will not the Honour of the Houſe much more ſuffer, if certain Lords, made all at a clap, and for what vile Purpoſes every one knows, be permitted to enjoy their Seats in Parliament?

Were this Precedent to be allow'd, it wou'd be an eaſy thing for the Miniſters to get a Sentence in the Supreme Court of Judicature, for raiſing Mony without Parliaments; ſince it wou'd be then in their power to get ſo many new Lords made, as wou'd turn the Queſtion, when the Legality of raiſing Mony without Conſent of Parliament came to be debated, in favour of the Court; and then there's an end of the Conſtitution.

As the Prerogative is moſt likely to be abus'd in making Peace and War, becauſe of the Intereſt ill Miniſters, brib'd by foreign Courts, have in it; ſo it may be of moſt fatal conſe-

conſequence, becauſe an unſeaſonable War may involve the Nation in infinite Troubles; and a Peace may be made upon ſuch vile Terms, as amounts to ſelling the Nation: and conſequently 'tis the Duty of the Parliament, to take the utmoſt care that thoſe who pervert the Prerogative in this point, be puniſh'd with the utmoſt Severity.

If we puniſh with Death the Commander of a Man of War, or of the moſt inconſiderable Fort, and that deſervedly, when even by Cowardice (in ſome a natural Infirmity) he fails in his Duty, becauſe of the Intereſt the Publick has in his Actions: is there not much more reaſon that Miniſters of State, on whoſe Conduct the Safety of the Whole depends, ſhou'd account for their Actions? And when by Ignorance, Negligence, or *Treachery*, the Publick does in any inſtance ſuffer, ought not their Puniſhment to be ſo much greater, as the Charge they were intruſted with was ſo? Male-Adminiſtration can have no Plea to juſtify it; and vain is the Pretence, when evil Miniſters vouch the Authority of the Prince for the Ill they have done. If that were allow'd to be a Bar to Parliamentary Enquiries, our Conſtitution cou'd laſt no longer than while we have Princes void of Ambition, or above the Influence of ill Men.

'Tis argu'd, that tho the late M—— are liable to be proſecuted in Parliament, yet out of reſpect to the Memory of the Queen, what has been acted within theſe laſt four Years ought to be bury'd in Oblivion.

'Tis impoſſible not to remember who was on the Throne when the late Peace was made, or that the Actions and Speeches of the Queen, for the four laſt Years of her Reign, were directly

directly contrary to the former, when her Glory was carry'd to the greateſt height. Therefore in juſtice to her Memory, thoſe Men ought not to be skreen'd, who made it their buſineſs not only to tarniſh the Luſtre of her firſt eight glorious Years, but wou'd throw the blame of all that was done during their Adminiſtration on the Queen her ſelf; who, but for their wicked Advice, might have maintain'd to the laſt the Character of being *always the ſame*. They firſt abus'd her Goodneſs by their Counſels, and wou'd now perſuade the World, that what ſhe did was contrary to their Advice, and that they barely ſubmitted to her Commands.

But no Arguments of this nature are of any weight; becauſe Truth ſhou'd be impartially ſpoken of dead Princes, to inſtruct the living, that they may know how to avoid their Faults, and imitate their Virtues: But if it be not ſafe to ſpeak Truth of Princes neither when alive, nor when dead, Mankind are like to be admirably well govern'd.

The *Chineſe*, the wiſeſt Nation in the World, in every King's Reign take care that his Life be writ by moſt able Men, and with the utmoſt Secrecy; and in the next Reign, when it is publiſh'd, if they appear to have been guilty of the leaſt Flattery, they are puniſh'd with the utmoſt Severity.

It's ſaid, that were the late M—— ever ſo criminal, yet if they have acted ſo cautiouſly as that no Law can reach them, it wou'd be unjuſt to make a Law *ex poſt facto* to puniſh them; and therefore that all Acts of Attainder are in their own nature unjuſt.

If the Law of Self-Preſervation gives a ſingle Perſon, whilſt in a State of Nature without Government, a Right to do every thing neceſſary for his Preſervation, ſo as to puniſh an unjuſt Aggreſſor, and to ſeek reparation for the Injury done him: certainly the ſame Law gives a Government, on whoſe Welfare the Safety of ſuch Numbers depends, the ſame Right; where every Member of the Body Politick engages to do all that he is able to ſupport it, and ſubmits his Perſon, and all he has, to the Supreme Legiſlative Power. And 'tis Treaſon, from the very Nature of the thing, for a Man to do any thing that tends to deſtroy that Conſtitution or Form of Government he is ſubject to.

'Tis impoſſible for any Legiſlature, conſidering the infinite Variety of Accidents, to provide againſt all Crimes, eſpecially relating to the State; and there may be Crimes ſo monſtrous (as 'tis ſaid Parricide was for a long time among the *Romans)* that a Government may not provide againſt them, becauſe it does not imagine Mankind ſo wicked, as to commit them, nor think it adviſable ſo much as to mention them. And there may be Offences attended with ſuch odious and aggravating Circumſtances, as will require more than uſual Puniſhment. In all theſe Caſes, the Supreme Law, *Salus Populi*, will authorize the Legiſlature to act; and they are to take care *ne quid detrimenti Reſpublica capiat:* the preventing of which, muſt always be within their Commiſſion.

It is, no doubt, unjuſt to make a Law *ex poſt facto*, to puniſh a Man for a thing which was indifferent till the Law forbad it: but if he does what he knows to be highly detrimental

to

to the Publick, and which in its own nature deſerves the greateſt Puniſhment; then, no doubt, it is the Duty of the Legiſlature, even *ex poſt facto*, to adapt a Puniſhment to the Crime.

Suppoſe the Gun-powder Plot had been deſign'd againſt the two Houſes of Parliament only, and that conſpiring againſt the Life of the King had been no part of their Crime; can any doubt but the Legiſlature might juſtly have puniſh'd the Conſpirators with Death, tho there was no antecedent Law which made it capital?

If the burning the Royal Navy was forbid by no Law, wou'd it not be highly reaſonable that the Legiſlature ſhou'd puniſh a Man with Death, that ſhou'd but conſpire in ſuch a Deſign? And is not giving up the Trade of the Nation, which drives away the Seamen, and makes the Royal Navy uſeleſs, a Crime that deſerves the ſame Fate?

Any private Good, when in oppoſition to the publick, is look'd on *ſub ratione Mali*. And tho, no doubt, it wou'd be highly unjuſt, when that is not concern'd, to expoſe innocent Perſons to the utmoſt Hardſhips; yet do not Governments practiſe this, when they compel People into the Wars, whereby they are not only expos'd to the greateſt Hardſhips, but great numbers muſt unavoidably loſe their Limbs and Lives?

And 'tis for the ſame reaſon that Men have been put to death, tho no legal Crimes were objected to them, and even ſometimes without any Tryal, merely upon ſuſpicion of having Deſigns againſt the Publick. And this is not only the practice of Abſolute Monarchies, but of free Governments. In *Venice* the Council

of Ten are truſted with this Power; and if one, tho of the higheſt Rank, is never heard of after they ſend for him, there's no murmuring about it. In *Rome* they uſed to create a Dictator for this end; and the puniſhing of *Sp. Mælius*, was a remarkable Inſtance of this nature; whoſe chief Crime was diſtributing among the common People, in a time of Dearth, a Largeſs of Corn unſutable to the Condition of a private Man. It is of ſuch Caſes as theſe that the *Roman* Hiſtorian ſays, *Omne magnum Exemplar habet in ſe aliquid ex iniquo, quod publica Utilitate compenſatur.*

Liv. l. 4. p. 353. Vol. 1. Gron. Edit.

Tacitus.

At *Rotterdam*, the Magiſtrates not long ſince put a Man to death for breaking fraudulently, then forbid by no Law; and divided his Eſtate among his Creditors, even tho he had compounded.

Tho in all Governments, both antient and modern, Men have been puniſh'd for Crimes againſt which there were no antecedent Laws: yet here in *England* ſo tender have we always been of Peoples Lives, that this Power was never truſted with a ſingle Perſon or with a few, who might put any to death clandeſtinely, and upon bare Suſpicion; but the Legiſlature always kept it in their own hands. And there's no danger that the Lords and Commons ſhou'd be drawn into any unneceſſary Severity, to gratify private Intereſt or Revenge; ſince ſuch Examples may be turn'd on themſelves or their Poſterity; and Courts are not uſually over-fond of making Precedents for the puniſhing of Miniſters. So that the late M—— muſt appear to be very rotten Members indeed, if the King, Lords, and Commons ſhall all agree that 'tis neceſſary they ſhou'd be cut off, to preſerve the Body Politick.

It

It may be objected, that we have now no other Standard for Treaſon, but the 25th of *Edw.* 3. by which the Parliament, as well as other Judges, are to govern themſelves.

To come to a right Notion of that Statute, it may be neceſſary to take a Survey of Treaſon, antecedently to it.

Among the *Saxons* there was no other Treaſon known, than that of Treachery to their Country, and deſerting it in time of danger. And *Tacitus* ſays, *Proditores & Transfugas arboribus ſuſpendunt.* Even plotting againſt their King was no more than Felony, as appears by the *Mirror of Juſtice:* an Indictment for an Offence of that nature againſt King *Edmund*, concludes only *felonicè*; whereas Indictments in the other caſe concluded *felonicè & proditoriè.* The Puniſhment of the one, was Loſs of Life, and Forfeiture of the perſonal Eſtate only; of the other, Loſs of Life, with Forfeiture of the whole Eſtate both real and perſonal.

Tacit. Ger. c. 10.

Mir. c. 2. Sect. 11.

Leg. Edw. c. 38. Concil. Ænham. 26.

Treaſon, which thus antiently related to the Kingdom only, we find by *Glanvill*, who wrote in *Henry* II's Reign, to have been then extended to the Perſon of the King: for that Author puts them both on the ſame foot, and makes one as well as the other to be *Crimen læſæ Majeſtatis.* And the reaſon of this, no doubt, was the Intereſt the Kingdom had in the Safety of their Sovereigns.

Glanv. de Leg. l. 1. c. 2. l. 14. c. 1.

Offences againſt the Safety and Honour of the King's Perſon being then become Treaſon, made it ſo extenſive, and render'd it of ſo uncertain a nature, that Perſons were often involv'd in Treaſon before they thought of it: for as yet Treaſon was under no other Regulation, than what the

preſent Senſe of the Judges (not always above the Influence of angry or covetous Princes) ſhou'd determine to be ſo; of which thoſe Times afforded but too many ſad Inſtances. To obviate therefore this Miſchief, was the Statute of the 25 *Edw.* 3. made, as a Rule whereby the Judges were intirely to govern themſelves, without ever deſigning (a thing impoſſible) to limit the Power of the Legiſlature, which muſt at all times be the ſame. And this is plain from the Statute it ſelf, which declares, "That becauſe many "other like Caſes of Treaſon may happen in "time to come, which a Man can't think or de-"clare at this preſent time, it is accorded, "that if any other Caſe, ſuppos'd Treaſon, "which is not above ſpecify'd, doth happen "before any Juſtices; the Juſtices ſhall tarry, "without any going to Judgment of the Trea-"ſon, till the Cauſe be ſhew'd and declar'd "before the King and his Parliament, whether "it ought to be judg'd Treaſon or other Fe-"lony."

By this Proviſo it appears, that the Parliament, which for good reaſons thought it neceſſary to confine inferior Juriſdictions to one Rule, reſerv'd to themſelves a Power of judging in particular Caſes, that were not expreſs'd in this Statute. Otherwiſe, why ſhou'd the Judges ſtay for the Reſolution of Parliament, if their Reſolution was not to affect the Caſe before them, but was only a Rule to them for the future?

The Practice of Parliaments being the beſt Interpreter of their Rights, I ſhall give ſome Inſtances of Acts of *Attainder*, both before and after the making of this Statute.

By

By the 33 *Edw.* 1. *Nicholas de Segrave* was attainted by Parliament, for leaving the Army then in *Scotland*. 3 Inſt. 7. R. P. 33. E. 1. R. 17. 22.

As this was before the Statute, ſo after it, *Gomines* and *Weſton* met with the ſame Treatment by Parliament, in the Reign of *Richard* II. for ſurrendring Forts of which they were Governours; not for Corruption, for that is not pretended, but out of mere Cowardice. And certainly neither of theſe are ſo great Crimes as a General's revealing to the Enemy the Determinations of the Council of War, receiving Orders from them, and taking Meaſures with them to divide the Army, that the greateſt part, upon a Separation, might be cut off. 1 R. 2. n. 38, 39. *Pryn's* Doom of Cowardice, n. 2. *the Caſe at large.*

Goury and *Oile* were attainted of Treaſon by Parliament, in the fourth of *Edward* III. for the Murder of the King's Father, depos'd for Male-Adminiſtration. And in the ſame Year, Sir *John Matrevers* was attainted for the Murder of the Earl of *Kent*, Uncle to *Edward* III. This was before the Statute, nor was it provided for by it, and yet *Talbot*, after the making it, was attainted by Parliament for conſpiring the Deaths of the Dukes of *Lancaſter* and *Glouceſter*, Uncles to *Richard* II. And certainly the conſpiring the Ruin and Deſtruction of the Kingdom, is infinitely a greater Crime: ſuch monſtrous Traitors, whatever their Quality was, our Anceſtors, as has been already obſerv'd, condemn'd to be hang'd. 3 Inſt. 7 R. P. 4. E. 3. n. 5. Seld. Jud. 96. R. P. 4. E. 3. n. 3, 4. Seld. Jud. 96. R. P. 17. R. 2. n. 20. 3 Inſt. 22.

In the 22d of *Edw.* 3. (three Years before the Statute) one *John at Hill* was attainted of Treaſon, for killing *Adrian de Walton* the King's Ambaſſador. This Caſe likewiſe was left out of the Statute, and yet in the 3d of *Rich.* 2. 22 Aſſ. 49.

Kirby

Kirby and *Algrove* were attainted of Treaſon by Parliament, for the Murder of *John Imperiall* Ambaſſador from *Genoa*. In this caſe, the Direction of the Statute was follow'd; for they were firſt indicted at the King's-Bench, but the Judges wou'd not proceed upon it, but laid it before the Parliament.

3 Inſt. 8 R. P. 3 R 2. n. 18. Hil. 3 R. 2. n. 31.

In the 23d of *Edw.* 3. Juſtice *Thorpe* was for Bribery ſentenc'd to death by Parliament; tho it was a Puniſhment much ſeverer than preſcrib'd by Law. And the reaſon of the Judgment was, That he had broke the King's Oath. And if this was a good reaſon for the Parliament to put him to death, it will hold much more ſtrongly for puniſhing thoſe who prevail on their Sovereigns to violate their Faith, and to break their moſt ſolemn Engagements with all their Allies. The Honour of the Kingdom and Crown is much more wounded by ſuch Acts, than by a Judg's underhand taking of Bribes.

4 Inſt.

In the 11th of *Rich.* 2. the Duke of *Glouceſter* and others brought an Appeal for Treaſon againſt the Archbiſhop of *York*, Chief Juſtice *Treſilian*, &c. The Common and Civil Lawyers, upon a Reference from the Lords, declar'd their Opinion, That the Appeal cou'd not be ſupported by either Law. The Lords then reſolv'd, that in a Crime of this nature, which concern'd the Perſon of the King, committed by ſo Great Men, of whom the Parliament were the only Judges, they wou'd not be bound *by the Rules of inferior Courts, which are but the Executors of the antient Laws and Cuſtoms of the Realm, and of the Ordinances of Parliament*: and ſo adjudg'd the Appeal to be good. Which was

11 R. 2. Seld. Jud. 83. *and his Notes on* Forteſcue de Laudibus, &c. c. 33.

was in effect saying, That the Parliament, which gives Rules to all inferiour Courts, was it self under none but those of right Reason and natural Justice. And do not both these cry aloud for inquiring into the late Conduct of the Ministry, their Tools and Instruments?

In the 11th of *Rich.* 2. *Tresilian* Chief Justice, *Belknap*, and other Judges, were attainted by Parliament, for giving Opinions, tho by the King's special Command, contrary to Law: and upon this Attainder, *Tresilian* was hang'd at *Tyburn*. And if a late Minister set the Seals to a Treaty of Peace, which gave away, contrary to an express Act of Parliament, Cape *Breton*; will the Prince's Command any more justify him, than it did the Chief Justice? And 'tis to be observ'd, this Act of Attainder is confirm'd by the 1st of *Hen.* 4. by which, Treasons were reduc'd to the old Standard of the 25th of *Edw.* 3. Seld. Jud. 81.

The calling ill Ministers to account, was in those times carry'd so far, that the Sanction of one Parliament was not thought sufficient to skreen them from the Resentment of another: for the Lord *Cobham* was attainted by Parliament, in the 21st of *Rich.* 2. for procuring to himself and others a Commission founded on a Statute made in the 10th of that King. And if even an *Act* of Parliament was not by our Ancestors thought sufficient to skreen evil Ministers, they wou'd never have imagin'd, that their mere *Votes* were so; especially if a Majority in one House was gain'd by a Practice highly criminal; and the other hastily voted Thanks for a Peace, before they knew upon what Terms it was made. Seld. Jud. 126.

John Mortimer had been committed to the *Tower* on ſuſpicion of Treaſon, but found means to make his eſcape: This breaking of Priſon, tho no Treaſon at Common Law, or by any Statute, was in Parliament, in the 2d of *Hen.* 6. adjudg'd Treaſon. And if ill Miniſters, conſcious of their own Guilt, fly out of the Kingdom, to avoid a Parliamentary Inquiry, there's no way to reach them, but by an Act of Attainder. Without that, untouch'd either in their Honour or Eſtate, they may ſecurely laugh at the Juſtice of the Nation.

Seld. Jud. 59.

In the Beginning of the Reign of *Henry* VIII. *Empſon* and *Dudley*, chiefly for Proſecutions founded on Acts of Parliament which had been long diſus'd, loſt their Lives; ſo tender was the Parliament to ſecure People from Oppreſſion on any pretence whatever.

Herb. H. 8.

In *Henry* VIII's time, one *Richard Coke*, for putting Poiſon into a Pot of Broth in the Biſhop of *Rocheſter*'s Kitchin, of which two died, was, by the 22d of *Hen.* 8. attainted of Treaſon, and order'd to be boil'd to death.

22 H. 8. c. 9.

In that King's time, *Elizabeth Barton*, for pretending to Revelations from God, that he was diſpleas'd with the King for his Divorce from Queen *Katherine*, and that he won'd not live a Month longer if he proceeded in his Match with *Anne* of *Bolen*, was attainted by Parliament: and her Crime, as *Coke* obſerves, was not within the 25 *Edw.* 3.

25 H. 8. c. 14. Herb. H. 8. *p.* 404. 3 Inſt. 14.

In the ſame Reign, the Lady *Katherine Howard* was attainted by Act of Parliament, for having been too free of her Favours before ſhe marry'd the King (which cou'd not be Treaſon within the 25th of *Edw.* 3.) as were *Der-*

Herb. H. 8. *p.* 537.

ham

ham and *Colepeper* for having to do with her.

In *Charles* the First's Reign was the famous Tryal of my Lord *Strafford*, which lasted above a Year; who was, after many Hearings, attainted of Treason, for endeavouring to change the Limited Government into an Absolute one.

Two things objected against this Attainder, were, 1. That the Parliament was so conscious of having given a wrong Sentence, that they enacted their Judgment shou'd not be drawn into a Precedent. 2. That tho no single Fact amounted to Treason, yet that they made the several Facts to be an accumulative Treason.

The Clause in the Act of Attainder, on which the first Objection is founded, is, "That no "Judg or Judges shou'd adjudg, interpret, or "determine any Act or Thing to be Treason, "otherwise than he or they shou'd, or ought "to have done, before the making this Act." This Clause was necessary to confine the Judges (not Parliaments) to the 25th of *Edw.* 3. because without it they wou'd have had a right to judg all such Cases as were parallel to *Strafford*'s to be Treason.

In answer to the other Objection, 'tis said, That the Crime charg'd on that Lord, was his designing to change the Limited Government; and that this was certainly such Treason as had always been cognizable by Parliament, tho not within the said *Act*: and that this was to be prov'd by such Overt Acts as shew'd his Intention.

Of late Years there have been three Acts of Attainder; that of the Duke of *Monmouth*, of Sir *John Fenwick*, and of the Pretender: in all

which the Parliament govern'd themſelves according to the Exigency of the Matter, and had no regard to thoſe Forms and Rules that are the Standard to inferiour Courts.

It may perhaps be objected, That ſome of the Attainders here quoted, having been revers'd by ſubſequent Parliaments, ought not to be of any weight, or urg'd as Precedents for the Power of Parliaments.

This certainly wou'd be true, cou'd it be prov'd that they were revers'd becauſe it was thought that the Parliament had not this Power, or becauſe the Matter their Judgments were founded on, was not within the Statute of the 25th of *Edw.* 3. But whatever other Reaſons were aſſign'd for reverſing theſe Attainders, I can't find, in any one inſtance, either of theſe to have been mention'd.

In the reverſing the Attainder of the Earl of *Strafford*, it was not deny'd, that endeavouring to change the Limited into an Abſolute Monarchy, was a Treaſon congizable by Parliament: but it was ſaid, that no one Act that the Earl was charg'd with, amounted to a Proof of it.

Tho After-Ages have been ſometimes led by Motives of Compaſſion to eaſe the Deſcendants of ſuch as have ſuffer'd under extraordinary Attainders, by reverſing them; yet I may take upon me to ſay, That if the Legiſlature ſhou'd think fit to proceed in this manner againſt the late M———, thoſe who come after us will have but little reaſon to ſhew Mercy, ſince 'tis to be fear'd that the Conſequences of their Adminiſtration may affect our lateſt Poſterity.

The

The Houſe of Lords formerly, even in their judicial Capacity, have adjudg'd the making an ill Peace a capital Crime. And one of the Articles on which they condemn'd *Roger* Earl of *Mortimer* to be hang'd (and accordingly his Body hung two Days and Nights at *Tyburn*) was for procuring a Peace with *Scotland* diſhonourable to the King and Kingdom. And tho this Judgment was revers'd, it was becauſe that Earl was not admitted to make his Defence in Perſon.

Daniel, *in* Kennet's Hiſtory of *England*, vol. 2. p. 213.

Had it not been for the 25th of *Edw.* 3. the Common-Law Judges might have retain'd to this day a Power to declare any thing to be Treaſon, which they apprehended to be highly prejudicial to the Kingdom. And ſure the Legiſlature, who cou'd firſt give them this Power, and afterward take it away, muſt have ſuch a Power inherent in themſelves.

I think I need add no more on this Head, ſince I hope 'tis by this time evident, that the Legiſlature, whenever they judg the Neceſſity of Affairs requires it, have an unalienable Right of proceeding by Acts of Attainder againſt great Offenders, tho guilty of ſuch Crimes as were not puniſhable by any expreſs Law; and that this Power is abſolutely neceſſary for the Preſervation of the Conſtitution.

If what is here writ, gives a true Idea of that Part of the Conſtitution relating to the Power of Parliaments, which every *Britiſh* Gentleman ought at all times, but eſpecially at this juncture, to underſtand; I ſhall think the Time and Pains I have ſpent on this Subject, well employ'd.

And

And ſince the Guardians of the *Britiſh* Liberties have declar'd, That the Meaſures which for ſome time paſt have been taken to accompliſh our Deſtruction, ſhall be trac'd out, and the Authors of them brought to condign Puniſhment; we ought not to be anxious about the Means they will employ: no doubt, they will take the moſt proper for effecting this ſo highly neceſſary Work, if it were but to ſtrike at the Root of the *French* Faction, which every day grows more and more inſolent: And without it, the Noiſe of the Danger of the Church (which was not ſafe, but when all was giving up to *France*) will not ceaſe, as long as there are any Remains of the Principles of the Reformation, or of the *Britiſh* Liberties, or one Foot of Church-Lands in the hands of the Laity.

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F I N I S.